

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 2303 - SB 2427

April 4, 2014

**SUMMARY OF ORIGINAL BILL:** Creates the *Health Care Provider Stability Act* (act). Prohibits a health insurer, third-party administrator, or other person from effect a material change to a contract under which a health care provider is paid for providing items or services during either the first year or initial term of the contract, whichever is longer. Such insurer, administrator, or other person is authorized to only make such a change to a contract if both the renewal date of such contract or the anniversary of the effective date of the contract, whichever is longer, and the third-party payer provides a calculation that estimates any reduction in the provider's cumulative allowed amount based on 12 months or shorter annualized period of time. A violation of this act is punishable by a civil penalty of no less than \$100 or more than \$1,000 for each violation. A health care provider may bring legal action to effectuate the provisions of this act. Defines "material change" as a change in fees or payment methodologies that a reasonable person would attach importance in determining the action to be taken upon the change. The act will take effect October 1, 2014.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures - \$6,014,600/FY14-15  
\$8,011,100/FY15-16 and Subsequent Years

Increase Federal Expenditures - \$10,979,700/FY14-15  
\$14,639,600/FY15-16 and Subsequent Years

IMPACT TO COMMERCE OF ORIGINAL BILL:

Increase Business Revenue - \$16,875,000/FY14-15  
\$22,500,000/FY15-16 and Subsequent Years

Other Impact to Commerce – Due to a number of unknown factors, the exact overall impact to commerce cannot be determined.

HB 2303 - SB 2427

**SUMMARY OF AMENDMENT (015540):** Deletes all language after the enacting clause. Creates the *Health Care Provider Stability Act* (act). Prohibits a health insurer, third-party administrator (TPA), or other person from effecting a material change to a contract under which a health care provider is paid for providing items or services more than once during a one year period. Requires a TPA or health care provider to send written notice of a material change to the other party sixty days prior to the effective date of such change. A healthcare provider or TPA may maintain an individual or class action as the sole remedy to enforce the provisions of the bill. Defines “material change” as a change in fees or payment methodologies that a reasonable person would attach importance in determining the action to be taken upon the change. Exempts plans administered by the Division of Benefits Administration, the Bureau of TennCare, or any entity that is subject to delinquency proceedings and for which the Commissioner of the Department of Commerce and Insurance has been appointed receiver or any entity placed under administrative supervision by order of the Commissioner. The act will take effect October 1, 2014.

## **FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

**Other Fiscal Impact - According to the Division of Benefits Administration, prohibiting any change for a period of 12 months may adversely affect the Division’s commercial carriers’ ability to adjust contracted rates, which consequently, may result in an increase in reimbursement costs from carriers to providers. Due to a number of unknown factors, any increase in cost or the time frame in which the increase will occur is unable to be determined.**

Assumptions for the bill as amended:

- This will have no significant fiscal impact upon the Department of Health.
- According to the Department of Finance and Administration, Division Benefits Administration, although this bill specifically exempts contracts or services provided to beneficiaries under any federal health program, TennCare Program, or the Tennessee State Group Insurance Program, the Division estimates that additional costs incurred within the carrier’s commercial networks may result in an indirect increase in network rates and subsequently affect Benefits Administration’s costs.
- Due to a number of unknown factors, including but not limited to, the timeframe in which any provider network reimbursement costs will increase, the possible increased volatility that could affect the provider networks, how this volatility will impact provider rates and the provider network itself, and how this will in turn affect the state employee, local government, and local education health plans, any increase in expenditures to the state health plan or the fiscal year in which these expenditures will occur cannot be quantified.
- According to the Bureau of TennCare, since the Medicaid program is exempted, there will be no impact.

- According to the Bureau of TennCare, this may have an impact upon the AccessTN program; however, any impact upon such program is estimated to be not significant.
- According to the Department of Commerce and Insurance, this will not apply to plans for which the Commissioner has been appointed receiver as a result of delinquency proceedings. This will have no significant impact upon the Department.
- Any civil penalties assessed are estimated to be minimal and will not result in a significant increase in revenue.

## **IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:**

**Other Impact to Commerce - Due to a number of unknown factors, the impact to commerce is not quantifiable.**

Assumption for the bill as amended:

- Due to a number of unknown factors including the resulting variation in payment rates between health care providers and private insurance companies, the extent to which health insurance companies may shift the rate variations to consumers through premiums, deductibles, and copayments, and the timeframe in which any of this might occur, the exact overall impact to commerce is indeterminable.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

/jdb